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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,903	02/09/2001	James K. Hawley	M 6678 HAMC	3930

423 7590 11/19/2004

HENKEL CORPORATION  
THE TRIAD, SUITE 200  
2200 RENAISSANCE BLVD.  
GULPH MILLS, PA 19406

EXAMINER
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NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/780,903

**Applicant(s)**

HAWLEY, JAMES K.

**Examiner**

Jennifer E. Novosad

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

*At the outset*, it is noted that the Examiner of record in this application has changed.

Please direct all future correspondences concerning this application to Primary Examiner Jennifer E. Novosad, Art Unit 3634.

This Office action is in response to the arguments filed August 6, 2004.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms (a) sufficiently soft" in claim 1, line 2, and (b) "low" in claim 1, line 6, are relative terms which render the claim indefinite. The terms "sufficiently soft" and "low" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 1 recites the limitation "the top edges" in line 6. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,204,159 (Tan '159) in view of U.S. Patent No. 4,967,057 (Bayless *et al.* '057).

*Insomuch as claim 1 is best understood (in view of the Section 112 rejections advanced above),* Tan '159 disclose a liner structure comprising a deformable, i.e., which is considered to be flexible, sheet (10 - see Figure 1) having a top and a bottom surface; the sheet (10) comprised of a first polymeric resin (see column 2, lines 65-69) base (12a) which is considered to render the sheet non-curling (see Figure 4) and the bottom surface non-skid (see column 2, lines 31-33) and a plurality of downwardly extending ridges (at 14) extend from the bottom surface (12a) and comprise the first polymeric resin; a plurality of upwardly extending ridges (20) on the top surface of the sheet (18) whereby the top surface (18) is comprised of a second polymeric resin and the second resin is different than the first resin (see column 2, lines 58-62); *with respect to claim 2,* the bottom surface (at 12a) of the sheet (10) is substantially flat (at portions in between 14); and *with respect to claim 3,* the bottom surface is considered to be undulating, i.e., at 16, the bottom surface is "wavelike".

The claims differ from Tan '159 in requiring: (a) upwardly extending ridges on the top surface of the flexible sheet (claim 1) that are straight and parallel to each other (claim 7), (b) the ridges to be made from resin that is harder than the first resin (claim 1), (c) the downwardly

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extending ridges to have a flat end (claim 5), (d) the downwardly extending ridges to be directly underneath the upwardly extending ridges (claim 6), (e) the upwardly extending ridges to have a triangular shape, and (f) the second resin to be harder than the first resin by at least 3 Shore A Hardness units (claim 12).

Bayless *et al.* '057 teach structure having upwardly extending ridges (33) on a top surface (34) that are straight and parallel to each other, and downwardly extending ridges, each having a flat end (as shown in Figure 4), from a bottom surface that are directly underneath the upwardly extending ridges; the upwardly extending ridges can have a pyramid shape (see column 3, line 56), i.e., triangular.

*With respect to (a), (c), (d), and (e),* it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the structure of Tan '159 with upwardly extending ridges aligned with downwardly extending ridges, as taught by Bayless *et al.* '057, where the downwardly extending ridges can have a flat end and the upwardly extending ridges can have a triangular shape, where called for in the claims, to thereby distribute the load placed on the structure to assist the structure in not skidding.

*With respect to (b),* although Tan '159 doesn't explicitly state that the second resin is harder than the first resin, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have fabricated the top surface of Tan '159 with upwardly extending ridges, as taught by Bayless *et al.* '057, and to have made the second resin harder than the first resin, thereby inhibiting curling of the structure.

*With respect to (f),* although Tan '159 does not disclose the hardness of the resin, it would have been an obvious matter of engineering design choice, as determined through routine

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experimentation and optimization, to one of ordinary skill in the art at the time the invention was made to routinely dimension the second resin to be at least 3 Shore A units harder than the first resin, containing silicone for a particular application, thus producing no new and unexpected results.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tan '159 in view of Bayless *et al.* '057 as applied to claims 1-7, 11, and 12 above, and further in view of U.S. Patent No. 4,336,293 (Eiden '293).

The claims differ from the above references in requiring the first (claim 8) and second (claim 10) polymeric resins to be plasticized (claims 8 and 10) polyvinyl chloride (claim 9).

Eiden '293 teach that it is old to use a plasticized polyvinyl chloride for a base (11 - see Figures 1 and 2).

*Thus*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the structure from plasticized polyvinyl chloride, where called for in the claims, as taught by Eiden '293, for ease in economy and manufacture and to promote an anti-slip surface, because it is well within the level of skill of one of ordinary skill to utilize known material features of the art for the purpose to which they are known.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

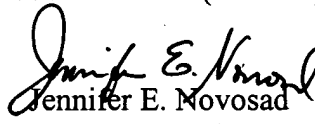
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634

Jennifer E. Novosad/jen  
November 5, 2004